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U.S. District Court
Southern District of New York (White Plains)
CIVIL DOCKET FOR CASE #: 7:20-mc-00119-CS

Watch Tower Bible and Tract Society of Pennsylvania
Assigned to: Judge Cathy Seibel
Cause: M 18-304 Administrative Subpoena Proceedings

Date Filed: 02/27/2020
Date Terminated: 02/28/2020

Petitioner

**Watch Tower Bible and Tract Society of
Pennsylvania**

represented by **Paul D. Polidoro**
Watch Tower Bible and Tract Society of
Pennsylvania
100 Watchtower Drive
Patterson, NY 12563
(845)-306-1000
Fax: (845)-306-0709
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Respondent

Jane/John Doe

represented by **Jane/John Doe**
Email: jwhater@protonmail.com
PRO SE

Date Filed	#	Docket Text
02/27/2020	1	MISCELLANEOUS CASE INITIATING DOCUMENT - REQUEST FOR ISSUANCE OF DIGITAL MILLENNIUM COPYRIGHT ACT SUBPOENA as to Google LLC. (Filing Fee \$ 47.00, Receipt Number ANYSDC-18944374) Document filed by Watch Tower Bible and Tract Society of Pennsylvania.(Polidoro, Paul) (Entered: 02/27/2020)
02/27/2020	2	MISCELLANEOUS CASE INITIATING DOCUMENT - REQUEST FOR ISSUANCE OF DIGITAL MILLENNIUM COPYRIGHT ACT SUBPOENA as to Google LLC. Document filed by Watch Tower Bible and Tract Society of Pennsylvania. (Attachments: # 1 Exhibit A-Proposed Subpoena)(Polidoro, Paul) (Entered: 02/27/2020)
02/27/2020	3	MISCELLANEOUS COVER SHEET filed..(Polidoro, Paul) (Entered: 02/27/2020)
02/27/2020	4	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by Watch Tower Bible and Tract Society of Pennsylvania..(Polidoro, Paul) (Entered: 02/27/2020)
02/27/2020	5	DECLARATION of Paul D. Polidoro in Support re: 2 Request for Issuance of Digital Millennium Copyright Act Subpoena,. Document filed by Watch Tower Bible and Tract

		Society of Pennsylvania. (Attachments: # <u>1</u> Exhibit 1).(Polidoro, Paul) (Entered: 02/27/2020)
02/27/2020	<u>6</u>	PROPOSED ORDER. Document filed by Watch Tower Bible and Tract Society of Pennsylvania. Related Document Number: <u>2</u> ..(Polidoro, Paul) Proposed Order to be reviewed by Clerk's Office staff. (Entered: 02/27/2020)
02/28/2020		Case Designated ECF. (bcu) (Entered: 02/28/2020)
02/28/2020		MISCELLANEOUS CASE OPENING INITIAL ASSIGNMENT NOTICE: The above-entitled action is assigned to Judge Cathy Seibel. Please download and review the Individual Practices of the assigned District Judge, located at https://nysd.uscourts.gov/judges/district-judges . Attorneys are responsible for providing courtesy copies to judges where their Individual Practices require such. Please download and review the ECF Rules and Instructions, located at http://https://nysd.uscourts.gov/rules/ecf-related-instructions . (bcu) (Entered: 02/28/2020)
02/28/2020		***NOTICE TO COURT REGARDING PROPOSED ORDER. Document No. <u>6</u> Proposed Order was reviewed and approved as to form. (dt) (Entered: 02/28/2020)
02/28/2020	<u>7</u>	ORDER GRANTING SUBPOENA: This matter comes before the Court upon the ex parte application of movant Watch Tower Bible and Tract Society of Pennsylvania along with the Declaration of Paul D. Polidoro, Esq. and supporting documents for the signing of a Subpoena directing Google, LLC to produce the identity of entities or persons believed to be infringing on the copyright of Watch Tower Bible and Tract Society of Pennsylvania. Having considered the Declaration and all documents submitted in support of the instant application, the Court finds good reason to issue an order directing the clerk to issue said subpoena and it is therefore: ORDERED that the clerk of this Court shall issue the Subpoena for Google, LLC as sought by the movant. SO ORDERED. The Clerk of Court is respectfully directed to terminate the case. (Signed by Judge Cathy Seibel on 2/28/2020) (mml) Transmission to Finance Unit (Cashiers) for processing. (Entered: 02/28/2020)
03/12/2020	<u>8</u>	MEMO ENDORSEMENT on JANE / JOHN DOE'S OBJECTION AND MOTION TO QUASH DMCA SUBPOENA PURSUANT TO THE FIRST AMENDMENT AND BOTH THE CA AND NY REPORTER SHIELD LAWS. ENDORSEMENT: Watch Tower shall respond to this application no later than 3/26/30. Movant is advised that he must copy Watch Tower's counsel on any communications to the Court, absent extraordinary circumstances. Movant's application for electronic filing privileges is denied. S/he may access the Court the same way as any pro se litigant. S/he must also, no later than 3/19/20, provide a snail-mail address or sign up to receive electronic service. My chambers will email this Order to Movant but this will be the last time. Movant is advised that the chambers email is only for copies of documents filed with the Court, so the Court will disregard any further email communications unless they are properly filed as well. SO ORDERED. (Signed by Judge Cathy Seibel on 3/12/2020) (mml) (Entered: 03/12/2020)
03/13/2020	<u>9</u>	JANE/JOHN DOE'S OBJECTION AND MOTION TO QUASH DMCA SUBPOENA PURSUANT TO THE FIRST AMENDMENT AND BOTH THE CA AND NY REPORTER SHIELD LAWS. (sbr) (Entered: 03/17/2020)
03/26/2020	<u>10</u>	AFFIRMATION of Paul D. Polidoro in Opposition. Document filed by Watch Tower Bible and Tract Society of Pennsylvania..(Polidoro, Paul) (Entered: 03/26/2020)
03/26/2020	<u>11</u>	MEMORANDUM OF LAW in Opposition to <i>Motion to Quash</i> . Document filed by Watch Tower Bible and Tract Society of Pennsylvania..(Polidoro, Paul) (Entered: 03/26/2020)
04/02/2020	<u>12</u>	MEMO ENDORSEMENT on JANE / JOHN DOE'S REPLY IN SUPPORT OF THE OBJECTION AND MOTION TO QUASH DMCA SUBPOENA. ENDORSEMENT: Movant's original arguments for quashing were without merit. Shield laws are inapplicable

		here because Movant is not being asked to reveal a journalistic source, and the First Amendment does not protect copyright infringement. But Movant has raised two factual issues in the instant reply that I believe merit a response by Watchtower. (By the way, I will accept Movant's by email this one time only because of the difficulties caused by the corona virus pandemic. Any future submissions must be made in conformity with the Standing Order issued by the Chief Judge regarding pro se electronic submissions during the emergency First, Movant challenges the good faith of Watchtower's representation that its purpose in seeking a DMCA subpoena is solely to identify a potential defendant for a copyright infringement action, alleging that Watchtower has invoked the 59 times without ever then bringing such a lawsuit. The Court can imagine reasons for that fact (if it is a fact) that do not evidence lack of good faith, but Watchtower should address (by declaration or affidavit of someone with knowledge) whether it is true, and if so, why I should not conclude that it evidences lack of good faith. Second, there seems to be a factual dispute as to what material belonging to Watchtower was allegedly used by Movant. Neither side has provided sworn declarations on this issue. Watchtower suggests that Movant posted full videos produced by Watchtower. Movant says he posted: 1) "undercover" videos of meetings, in which (he suggests) Watchtower would have no copyright rights; and 2) portions of videos produced by Watchtower, which (he implies) would be fair use because it was part of criticism. See <i>In re DMCA Subpoena to Reddit, Inc.</i> , No. 19-MC-80005, 2020 WL 999788 (N.D. Cal. Mar. 2, 2020). Accordingly, Watchtower should address (by declaration or affidavit of someone with knowledge) what exactly it claims was infringed by Movant and how. Watchtower's submission shall be submitted by 4/17/20. Movant may reply (also by declaration or affidavit on personal knowledge) by 5/1/20. SO ORDERED. (Signed by Judge Cathy Seibel on 4/2/2020) (mml) (Entered: 04/03/2020)
04/06/2020	13	JANE / JOHN DOES REPLY IN SUPPORT OF THE OBJECTION AND MOTION TO QUASH DMCA SUBPOENA (cf) (Entered: 04/07/2020)
04/06/2020	14	CONSENT TO ELECTRONIC SERVICE (cf) (Entered: 04/07/2020)
04/09/2020	15	JANE / JOHN DOE'S REQUEST FOR ADDITIONAL BRIEFING BY THE WATCH TOWER REGARDING OTHER BOGUS DMCA TAKE DOWN REQUESTS. Document filed by Jane/John Doe. (rro) (Entered: 04/09/2020)
04/15/2020	16	JANE / JOHN DOE'S SUPPLEMENT IN SUPPORT OF THE MOTION TO QUASH DMCA SUBPOENA. Document filed by Jane/John Doe. (jwh) (Entered: 04/16/2020)
04/16/2020	17	ORDER: The Court will not accept any further filings except Watch Tower's 4/17/20 submission and Doe's 5/1/20 response. Any other filings will be disregarded, so do not bother sending any. (HEREBY ORDERED by Judge Cathy Seibel) (Text Only Order) (Seibel, Cathy) (Entered: 04/16/2020)
04/17/2020	18	DECLARATION of Paul D. Polidoro in Support re: 12 Memo Endorsement,,,,,,,,, Document filed by Watch Tower Bible and Tract Society of Pennsylvania..(Polidoro, Paul) (Entered: 04/17/2020)
04/17/2020	19	MEMORANDUM OF LAW in Support re: 18 Declaration in Support of <i>Watch Tower Bible and Tract Society's Opposition to Motion to Quash</i> . Document filed by Watch Tower Bible and Tract Society of Pennsylvania..(Polidoro, Paul) (Entered: 04/17/2020)
05/04/2020	20	JANE / JOHN DOE'S REPLY IN SUPPORT OF THE MOTION TO QUASH DMCA SUBPOENA: Document filed by Jane/John Doe. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5)(ama) (Entered: 05/05/2020)
05/09/2020	21	ORDER : Having heard further from the parties, I deny the motion to quash. Watch Tower has provided an explanation for why it has not pursued more cases, as well as evidence

that the alleged infringement would not constitute fair use because the videos are full-length and not accompanied by criticism. That there may be criticisms in the comments section does not render the initial postings fair use. Movant argues that the subpoena is unenforceable because the videos were all taken down before Google received notice. I am dubious, because this allegation contradicts what Movant alleges elsewhere -- that the videos were taken down only after the notices were received -- and because in Watch Tower's initial declaration, it attached a letter it sent to Google asking it to take down the videos. But the subpoena would be unenforceable if the material had been taken down before the notices were received, so Watch Tower's counsel should provide Google with a copy of this text order, and Google is advised that compliance with the subpoena is not required if in fact the videos were taken down before Google received any notice of the possible infringement. Finally, some free advice for Movant: Inflammatory, vulgar and abusive language in court filings is not a good idea. (HEREBY ORDERED by Judge Cathy Seibel) (Text Only Order) (Seibel, Cathy) (Entered: 05/09/2020)

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